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Attorneys for Defendant Kingston Technology Company, Inc.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA - SAN DIEGO DIVISION

e.Digital Corporation,

Plaintiff,

vs.

Kingston Technology Company Inc.,

Defendant

Civil Case No.: 13-CV-2906-H-BGS

**DEFENDANT KINGSTON
TECHNOLOGY COMPANY,
INC.'S NOTICE OF MOTION AND
MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM
(F.R. Civ. P. 12(b) (6))**

Date: May 19, 2014
Time: 10:30 a.m.
Place: Courtroom 15A
333 West Broadway
San Diego, California 92101

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 19, 2014 at 10:30 a.m. or as soon thereafter as the matter can be heard, in Courtroom 15A, of the United States District Court for the Southern District of California, San Diego Division, located at 333 West Broadway, San Diego, California, Defendant Kingston Technology Company, Inc. will, and hereby does, move to dismiss the Complaint of Plaintiff e.Digital Corporation, pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure, on the ground the Complaint fails to state a claim upon which relief can be granted.

This motion is based on the Complaint on file in this matter, as well as the Exhibits to the Complaint, this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the further briefing and arguments of counsel, and such further matters as may be presented to the Court.

DATED: April 4, 2014

/s/ Breton A. Bocchieri
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF System pursuant to CivLR 5.4 (d). The undersigned believes that all counsel of record in this litigation have consented to electronic service.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: April 4, 2014

/s/ Christine Yang